THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 5545 of 2006

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Dated: 21.03.2006

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Between:

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G.Ramakrishna S/o Prakasam,

Chargehand (Operator),

Mechanical Engineering Department,

Visakhapatnam Port Trust,

Visakhapatnam.

… **PETITIONER**

And:

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The Governmetn of Andhra Pradesh,

represented by its Principal Secretary,

Social Welfare Department, Secretariat,

Hyderabad and others.

…**RESPONDENTS**

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 5545 of 2006

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ORDER:

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Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare.

This writ petition is filed questioning the proceedings, dated 20.02.2006, vide Memo No.712/CV.2/2006-1, passed by the first respondent-Government, rejecting the application for grant of stay filed by the petitioner in the appeal preferred by him against the order of the second respondent-District Collector, Visakhapatnam, dated 26.08.2005, in which a declaration is made to the effect that the petitioner does not belong to Scheduled Tribe.

It is the case of the petitioner that he belongs to Kotia Community, which is notified as Scheduled Tribe, and basing on which he secured employment as Operator in Mechanical Engineering Department in the Visakhapatnam Port Trust. However, based on the communication sent by his employer, the second respondent passed the order, dated 26.08.2005, declaring that the petitioner does not belong to Schedule Tribe and further stating that inasmuch as the petitioner did not produce the caste certificate, no orders are passed cancelling the same. Against the said order of the second respondent, the petitioner preferred an appeal as provided under A.P. (Scheduled castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short “the Act”). Along with the appeal, he has also filed an application seeking stay of the above order. However, the same was rejected by the first respondent observing that no new grounds were raised by the petitioner to stay the order passed by the second respondent.

It is the further case of the petitioner that he has submitted the Caste Certificate to his employer at the time of his appointment, and therefore, could not produce the same before the second respondent.

Admittedly, as per the provisions of the Act, there is a remedy of appeal against the order of the Primary Authority i.e., the District Collector, to the

Government and the petitioner has also availed the said remedy and the same is pending before the first respondent.

Therefore, taking into account the fact that the appeal preferred by the petitioner as per the provisions of the Act is pending, and the main issue is to be considered at the time of disposal of the said appeal and further, inasmuch as the petitioner was appointed during the year 1975, basing on the caste certificate secured by him, and is being continued in service all along, I dispose of the writ petition directing the appellate authority to decide the appeal, as expeditiously as possible. I further direct that the order of the District Collector, dated 26.08.2005, shall be under suspension till the disposal of the appeal by the Government.

Subject to the above directions, the writ petition is disposed of. There shall be no order as to costs.

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21.03.2006

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